



# राजपत्र, हिमाचल प्रदेश

## (असाधारण)

हिमाचल प्रदेश राज्यशासन द्वारा प्रकाशित

शिमला, सोमवार, ८ जुलाई, १९६८/१७ आषाढ़, १८६०

### GOVERNMENT OF HIMACHAL PRADESH

#### VIDHAN SABHA SECRETARIAT

#### NOTIFICATION

*Simla-4, the 2nd July, 1968*

No. 1-39/68-VS.—In pursuance of Rule 135 of the Rules of Procedure and Conduct of Business of the Himachal Pradesh Legislative Assembly, 1964 “The Punjab General Sales Tax (H. P. Amendment and Validation) Bill, 1968 (Bill No. 21 of 1968)” as introduced in the Legislative Assembly on the 2nd July, 1968 is hereby published in the Himachal Pradesh Government Gazette.

SURENDRANATH,  
*Under Secretary.*

Bill No. 21 of 1968.

**THE PUNJAB GENERAL SALES TAX (HIMACHAL  
PRADESH AMENDMENT AND VALIDATION)  
BILL, 1968**

(AS INTRODUCED IN THE LEGISLATIVE ASSEMBLY)

A

**BILL**

*to amend the Punjab General Sales Tax Act, 1948, as in force in the territories added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966 and to validate the levy and collection of tax on certain goods made under that Act and the proceedings connected therewith or ancillary thereto.*

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Nineteenth Year of the Republic of India as follows:—

Short title

1. This Act may be called the Punjab General Sales Tax (Himachal Pradesh Amendment and Validation) Act, 1968.

Amend-  
ment of  
section 2.

2. In section 2 of the Punjab General Sales Tax Act, 1948 (hereinafter referred to as the principal Act),—

(i) after clause (d), the following clause shall be inserted, namely:—

“(dd) ‘declared goods’ shall have the meaning assigned to that expression in clause (c) of section 2 of the Central Sales Tax Act, 1956;”

Central  
Act 74  
of 1956.

(ii) in clause (ff), the words and letter “specified in Schedule C” shall be omitted;

(iii) in clause (h), the words and letter “other than goods specified in Schedule C” shall be omitted;

(iv) in clause (i), after Explanation (2), the following Explanation shall be inserted, namely:—

“Explanation (3)—The proceeds of sales of any goods on the purchase of which tax is leviable under this Act, or the purchase value of any goods on the sale of which tax is leviable under this Act, shall not be included in the turnover.”

Amend-  
ment of  
section 5.

3. In section 5 of the principal Act,—

(i) in sub-section (1),—

(a) in the opening paragraph and in the first proviso, for the words “naya paise”, the words “paise” shall be substituted;

(b) for the second and third provisos, the following provisos shall be substituted, namely:—

“Provided further that the rate of tax,—

(i) for the period commencing on the 1st day of October, 1958 and ending with the 31st day of March, 1960, in respect of all declared goods, and groundnut shall be, and shall be deemed for that purpose to have been, two paise in a rupee and such tax shall be, and shall be

deemed for that period to have been, leviable and payable,

(a) where such goods were purchased for use in the manufacture of goods for sale, on the purchase thereof at the stage at which they were so purchased by the dealer liable to pay tax under this Act; and

(b) where such goods were not purchased for use in the manufacture of goods for sale, on the sale thereof at the stage of sale by the last dealer liable to pay tax under this Act;

(ii) for the period commencing on the 1st day of April, 1960 and ending with the commencement of the Punjab General Sales Tax (Himachal Pradesh Amendment and Validation) Act, 1968,—

(a) in respect of declared goods specified in clauses (ii) and (vi) of section 14 of the Central Sales Tax Act, 1956, and in respect of groundnut and resin (crude pinegum) shall be, and shall be deemed for that period to have been, two paise in a rupee, and such tax shall be, and shall be deemed for that period to have been, leviable and payable on the purchase of such goods at the stage of purchase by the last dealer liable to pay tax under this Act;

Central Act  
74 of 1956.

(b) in respect of declared goods other than those referred to in clause (a), shall be, and shall be deemed for that period to have been, two paise in a rupee, and such tax shall be, and shall be deemed for that period to have been, leviable and payable on the sale thereof at the stage of sale by the last dealer liable to pay tax under this Act;

(iii) after the commencement of the Punjab General Sales Tax (Himachal Pradesh Amendment and Validation) Act, 1968, in respect of all declared goods shall, unless a lower rate is fixed by the State Government by notification, be three paise in a rupee and such tax shall be leviable and payable at the stage of sale or purchase, as the case may be, and under the circumstances specified against such goods in Schedule D:

Provided further that in the case of goods specified in Schedule C, the tax shall be leviable and payable only on the purchase thereof.”;

(2) in sub-section (I-A),—

(a) in the opening paragraph, for the words “in respect of such goods and”, the words and letters “in respect of such goods, other than the goods specified in Schedules C and D” shall be substituted;

(b) in the proviso, for the words “were purchased”, the words “were purchased to the effect that the tax on such goods has been paid at the first stage,” shall be substituted and shall be deemed to have been substituted with effect from the 16th day of December, 1965;

(3) in clause (a) of sub-section (2),—

(a) in sub-clause (ii),—

(i) for the words, brackets, figure and letter “sales to a registered dealer of goods, other than sales of goods liable to tax at the first stage under sub-section (IA)”, the words, letters, brackets and figure “sales to a registered dealer of goods, other than sales of goods specified in Schedules C and D or of goods liable to tax at the first stage under sub-section (IA)” shall be substituted;

(ii) for the first proviso, the following provisos shall be substituted, namely:—

“Provided that no dealer shall be entitled to make any deductions from his turnover in respect of sale made by him to a registered dealer with whom composition under sub-section (2) of section 10 has been made and is in force:

Provided further that in the case of such sales, a declaration duly filled and signed by the registered dealer to whom the goods are sold, containing the prescribed particulars and inscribed on the bill or cash memorandum referred to in sub-section (2) of section 13, is furnished by the dealer who sells the goods:”;

(b) for sub-clause (vi), the following sub-clause shall be substituted namely:—

“(vi) the purchase of goods,—

(A) in any year during the period commencing on the 1st day of April, 1960 and ending with the commencement of the Punjab General Sales Tax (Himachal Pradesh Amendment and Validation) Act, 1968, which were or are sold not later than six months after the close of that year, to a registered dealer or in the course of inter-State trade or commerce or in the course of export out of the territory of India;

(B) at any time after the commencement of the Punjab General Sales Tax (Himachal Pradesh Amendment and Validation) Act, 1968,

(i) which are specified in Schedule C and are sold during the year to a registered dealer or in the course of inter-State trade or commerce or in the course of export out of the territory of India; or

(ii) which are referred to in Schedule D and are sold during the year in the course of inter-State trade or commerce or in the course of export out of the territory of India:

Provided that in the case of a sale referred to in paragraph (A) or in sub-paragraph (i) of paragraph (B) to a registered dealer, a declaration in the prescribed form and duly filled and signed by the registered dealer to whom the goods are sold, is furnished by the dealer claiming deduction:

Provided further that the purchase of goods referred to in paragraph (A) or in sub-paragraph (ii) of paragraph (B) remaining unsold within the period specified in those paragraphs shall be deemed to be the purchase of the dealer claiming deduction during the year following.”;

(c) in sub-clause (vii), for the word “sales”, the words “sales or purchases” shall be substituted;

(4) after sub-section (2), the following sub-section shall be inserted and shall be deemed to have been inserted with effect from the 1st day of October, 1958, namely:—

“(3) Notwithstanding anything contained in this Act, the taxable turnover of any dealer for any period shall not include his turnover during that period in respect of any sale or purchase of declared goods at any stage other than the stage referred to in the second proviso to sub-section (1).”

4. After section 11-A of the principal Act, the following section shall be inserted namely:—

Insertion  
of new section  
11AA.

“11 AA. *Review of assessments etc., of tax on declared goods and groundnut.*—(1) Notwithstanding anything contained in this Act or the rules made thereunder, the assessing authority shall, whether or not an application is made to him in this behalf, review all assessments and re-assessments made before the commencement of the Punjab General Sales Tax (Himachal Pradesh Amendment and Validation) Act, 1968, in respect of declared goods and groundnut and make such order varying or revising the order previously made as may be necessary for bringing that order in conformity with the provisions of this Act as amended by the said Act:

Provided that no proceeding for review shall be initiated without giving the dealer concerned a notice in writing of not less than thirty days.

(2) Any dealer on whom a notice is served under sub-section (1) may, within thirty days from the date of receipt of such notice, intimate in writing to the assessing authority that he has no objection to the assessment or re-assessment already made and thereupon, the assessing authority shall not review such assessment or re-assessment, as the case may be, under this section.

(3) No order shall be made under this section against any dealer without giving such dealer a reasonable opportunity of being heard.”

5. After section 11-B of the principal Act, the following section shall be inserted, and shall be deemed always to have been inserted, namely:—

Insertion  
of new section  
11C.

“11 C. *Period of limitation for completion of assessment or re-assessment not to apply in certain cases.*—(1) Notwithstanding the provisions relating to the period of limitation contained in section 11 or section 11-A or in any other provision of this Act, assessment or re-assessment may be made at any time in consequence of, or to give effect to, any order made by any court or other authority under this Act.

(2) Where the assessment proceedings relating to any dealer remained stayed under the orders of any court or other authority for any period, such period shall be excluded in computing the period of limitation for assessment or re-assessment specified in section 11 or section 11-A or in any other provision of this Act.”

Insertion  
of new sec-  
tion 23A.

6. After section 23 of the principal Act, the following section shall be inserted, namely:—

“23A. *Certain contraventions not to be offences.*—Notwithstanding the retrospective operation of any of the provisions of the Punjab General Sales Tax (Himachal Pradesh Amendment and Validation) Act, 1968, no contravention of, or no failure to comply with, any of the provisions of this Act as amended by the said Act shall render any person guilty of an offence,—

(i) if such contravention or failure relates to any provision of this Act as amended by the said Act; and

(ii) if such provision was contravened or not complied with on or after the 1st day of October, 1958, and before the commencement of the said Act.”

Substitution  
of new sec-  
tion for  
section 31.

7. For section 31 of the principal Act, the following section shall be substituted, namely:—

“31. *Power to amend Schedules C and D.*—The State Government may, after giving by notification, not less than thirty days’ notice of its intention so to do, by notification, add to, or omit from, or otherwise amend Schedule C or Schedule D and thereupon Schedule C or Schedule D, as the case may be, shall be deemed to be amended accordingly.”

Substitution  
of new  
Schedules  
for Sched-  
ule C.

8. For Schedule C to the principal Act, the following Schedules shall be substituted namely:—

#### “Schedule C

[See the third proviso to sub-section (1) of section 5]

(1) Resin (Crude pine-gum).

(2) Groundnut.

#### Schedule D

[See clause (iii) of the second proviso to sub-section (1) of section 5]

Serial No.	Name of declared goods	Circumstances under which tax to be levied.	Stage of levy
1	2	3	4
1.	Cotton, that is to say, all kinds of cotton (indigenous or imported) in its manufactured state, whether ginned or unginned, baled, pressed or otherwise but not including cotton waste.	(i) If imported by a dealer from outside the transferred territory or otherwise received by him in the transferred territory for sale. (ii) If purchased in the transferred territory.	(i) First sale within the transferred territory by a dealer liable to pay tax under this Act. (ii) First purchase within the transferred territory by a dealer liable to pay tax under this Act.

1	2	3	4
2.	Oil-seeds, that is to say, yielding seeds non-volatile oils used for human consumption or in industry, or in the manufacture of varnishes, soaps and the like, or in lubrication, and volatile oils used chiefly in medicines, perfumes, cosmetics and the like.	(i) if imported by a dealer from outside the transferred territory or otherwise received by him in the transferred territory, for sale. (ii) If purchased in the transferred territory.	(i) First sale within the transferred territory by a dealer liable to pay tax under this Act. (ii) First Purchase within the transferred territory by a dealer liable to pay tax under this Act.
3.	All other declared goods.	(i) If manufactured in the transferred territory. (ii) In all other cases.	(i) Sale in the transferred territory by the manufacturer and where manufacturer is not liable to pay tax under this Act, by the earliest of successive dealers liable to pay tax under this Act. (ii) First sale in the transferred territory by a dealer liable to pay tax under this Act.

*Explanation.*—In this Schedule, “transferred territory” shall have the meaning assigned to that expression in clause (n) of section 2 of the Punjab Re-organisation Act, 1966.”

Central Act  
31 of 1966.

9. (1) Notwithstanding any judgment, decree or order of any court or other authority any levy, assessment, re-assessment or collection of any tax in respect of any declared goods referred to in section 14 of the Central Sales Tax Act, 1956, resin (crude pine-gum) and groundnut made or purporting to have been made before the commencement of this Act, in the territories added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966, and any action or thing, taken or done or purporting to have been taken or done before such commencement in relation to such levy, assessment, re-assessment or collection under the provisions of the principal Act shall be deemed to be as valid and effective as if such levy, assessment, re-assessment or collection or action or thing had been made, taken or done under the principal Act, as amended by this Act, and accordingly:—

Central Act  
74 of 1956.

Central Act  
31 of 1966.

(a) all acts, proceedings or things done or action taken by the State Government or by any officer of the state Government or by any authority in connection with the levy, assessment, re-assess-

ment or collection of such tax shall, for all purposes, be deemed to be and to have been always, done or taken in accordance with law;

- (b) no suit or other proceeding shall be maintained or continued in any court for the refund of any such tax so collected; and
- (c) no court shall enforce a decree or order directing the refund of any such tax so collected.

(2) For the removal of doubts, it is hereby declared that nothing in sub-section (1) shall be construed as preventing any person from claiming refund of any tax paid by him in excess of the amount due from him under the principal Act, as amended by this Act.



## STATEMENT OF OBJECTS AND REASONS

In order to abide by the restrictions imposed by section 15 of the Central Sales Tax Act, 1956, a second proviso was inserted under sub-section (1) of section 5 of the Punjab General Sales Tax Act, 1948. Accordingly, the Assessing Authorities have all along been levying tax on declared goods at the last stage of sale or purchase thereof after allowing the prescribed deductions to the dealers liable to pay tax. The Supreme Court has held that in the absence of any specific stage of levy having been defined in the Sales Tax statute, the levy and collection was *ultra vires*. To remedy this legal infirmity as also to validate the levy and collection of tax on declared goods in the transferred territory where the Punjab General Sales Tax Act, 1948 is applicable, it is necessary to amend the said Act. This Bill seeks to achieve the objects.

SIMLA:

The 2nd July, 1968.

SUKH RAM,

*Development Minister.*

## FINANCIAL MEMORANDUM

The Bill is not likely to yield any additional income in as much as it is intended only to remedy the legal infirmity as also to validate the levy and collection of tax on declared goods.

## MEMORANDUM REGARDING DELEGATED LEGISLATION

Nil

## RECOMMENDATIONS OF THE ADMINISTRATOR UNDER SECTION 23 OF THE GOVERNMENT OF UNION TERRITORIES ACT, 1963

(Noting paras 108-112 of the Excise and Taxation Department File No. 14-3/67 E&T).

The Administrator having been informed of the subject matter of the Punjab General Sales Tax (Himachal Pradesh Amendment and Validation) Bill, 1968, recommends under section 23 of the Government of Union territories Act, 1963, the introduction of the Bill.

